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March 14, 2000

VIA HAND DELIVERY

Magalie Roman Salas
Commission Secretary
Federal Communications Commission
Portals II
445 12th Street, S.W., Suite TW-A325
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: File No. NSD-L-99-101; CC Docket 96-98; Comments of RCN Telecom
Services, Inc.

Dear Secretary Salas:

On behalf of RCN Telecom Services, Inc. ("RCN"), enclosed please find an original and four (4) copies of RCN's comments in the above-referenced docket. Please date stamp and return the enclosed extra copy. Concurrently with this filing, RCN is submitting two (2) copies of its comments to the Network Services Division.

Should you have any questions with respect to this matter, please do not hesitate to call Ron Del Sesto at (202) 945-6923.

Respectfully submitted,

Ronald W. Del Sesto, Jr.

Ronald W. Del Sesto, Jr.

Enclosure

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Petition of the Pennsylvania Public)	
Utility Commission for Delegated)	NSD File No. L-99-101
Authority to Implement Number)	
Conservation Measures)	
)	
Petition for Declaratory Ruling and)	
Request for Expedited Action on)	NSD File No. L-97-42
July 15, 1997 Order of the Pennsylvania)	
Public Utility Commission Regarding)	
Area Codes 412, 610, 215, and 717)	
)	
Implementation of the Local Competition)	
Provisions of the Telecommunications)	CC Docket No. 96-98
Act of 1996)	

**COMMENTS OF
RCN TELECOM SERVICES, INC.**

RCN Telecom Services, Inc. ("RCN") by undersigned counsel and pursuant to the Common Carrier Bureau's February 14, 2000 Public Notice,¹ submits its Comments in the above-captioned proceeding.

I. Introduction

As a facilities-based provider of telecommunications services throughout the State of Pennsylvania, RCN is well aware of the problems caused by number exhaust. RCN is dependent upon access to numbering resources both to initiate and expand its services offerings. RCN's ability to compete effectively for new customers, and to continue to serve the needs of existing customers

¹ *Common Carrier Bureau Seeks Comment on the Pennsylvania Public Utility Commission's Petition for Delegation of Additional Authority to Implement Number Conservation Measures*, NSD File No. L-99-101, Public Notice, DA 00-281 (rel. Feb. 14, 2000).

in an efficient and cost effective manner, is wholly dependent upon its ability to obtain non-discriminatory and timely access to numbering resources. As a result, RCN is acutely aware of the effects of the number shortages now being experienced in Pennsylvania.

RCN supports the efforts of the Pennsylvania Public Utilities Commission ("PUC") to address the problem of number exhaust. RCN expects that the Federal Communications Commission ("FCC") will grant additional delegated authority to the Pennsylvania PUC that is consistent with its prior orders issued in response to petitions filed by numerous other state commissions.² While RCN does not support every aspect of the FCC's prior orders, RCN will not repeat past arguments in this filing. Instead, RCN will focus on issues related to the implementation of number conservation measures by state commissions that have received delegated authority and suggest that the FCC tailor any grant of authority it provides to the Pennsylvania PUC to address some of the issues that have already arisen in other states. Further, RCN requests that the FCC deny

² See, e.g., *California Pub. Utils. Comm'n Petition for Delegation of Additional Authority Pertaining to Area Code Relief and NXX Code Conservation Measures*, CC Docket No. 96-98, FCC 99-248 (rel. Sept. 15, 1999) ("California Delegation Order"); *Florida Pub. Service Comm'n Petition to Federal Communications Comm'n for Expedited Decision for Grant of Authority to Implement Number Conservation Measures*, CC Docket No. 96-98, FCC 99-249 (rel. Sept. 15, 1999) ("Florida Delegation Order"); *Massachusetts Dept. of Telecom. and Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes*, CC Docket No. 96-98, FCC 99-246 (rel. Sept. 15, 1999); *New York State Dept. of Pub. Service Petition for Additional Delegated Authority to Implement Number Conservation Measures*, CC Docket No. 96-98, FCC 99-247 (rel. Sept. 15, 1999) ("New York Delegation Order"); *Maine Pub. Utils. Comm'n Petition for Additional Delegated Authority to Implement Number Conservation Measures*, CC Docket No. 96-98, FCC 99-260 (rel. Sept. 28, 1999); *Connecticut Dept. of Pub. Util. Control Petition for Delegation of Additional Authority to Implement Area Code Conservation Measures*, CC Docket No. 96-98 (rel. Nov. 30, 1999); *New Hampshire Pub. Utils. Comm'n Petition for Additional Delegated Authority to Implement Number Optimization Measures in the 603 Area Code*, CC Docket No. 96-98 (rel. Nov. 30, 1999); *Petition of the Ohio Pub. Utils. Comm'n for Delegation of Additional Authority to Implement Number Conservation Measures* (rel. Nov. 30, 1999); *Petition of the Pub. Util. Comm'n of Texas for Expedited Decision for Authority to Implement Number Conservation Measure*, CC Docket No. 96-98 (rel. Nov. 30, 1999); *Petition of the Pub. Service Comm'n of Wisconsin for Delegation of Additional Number Conservation Measures* (rel. Nov. 30, 1999).

the portions of the Pennsylvania PUC's petition that exceed the authority provided to other state commissions.

II. The FCC Should Clarify the Delegated Authority that State Commission's Possess in Expanding Pooling Trials

While the FCC has granted numerous state commissions the authority to engage in thousands block number pooling, RCN requests that the FCC clarify its delegation of authority in the expansion of pooling trials. In granting various state commissions authority to engage in thousands block number pooling trials, the FCC has also made clear that only after full implementation in one MSA may state commissions expand the trial to additional MSAs. Carriers must engage in various time consuming tasks in order to prepare for a number pooling trial. The industry must be able to take all the necessary steps that are required for such implementation. It is impossible to predict the complications that will arise in each MSA as well as to forecast the demand for ported numbers. Some state commissions have interpreted the FCC's delegation of authority to mean that so long as a number pooling trial has been initiated in a certain MSA, they may then expand the trial into another MSA before fully implementing the number pooling trial in the original MSA. Given the uncertainties of the pooling process, state commission must allow carriers time to prepare for number pooling and implement trials one MSA at a time.

RCN further requests that FCC direct state commissions reserve one 10,000 NXX block for facilities-based providers, that is, carriers that actually construct their networks as opposed to those that purchased unbundled network elements ("UNEs"). Carriers that engage in the construction of their own networks cannot use codes as quickly as those that rely on UNEs to provide service. Thus, facilities based providers find themselves at a distinct disadvantage when attempting to acquire necessary numbering codes.

III. State Commissions Should Consider the Same Factors as the FCC when Establishing Fill Rates

The FCC has also granted previous requests by state commissions to impose fill rate requirements on carriers that seek additional growth codes. RCN requests that the FCC require the Pennsylvania PUC to consider the same factors that the FCC is evaluating in its *Numbering Resource Optimization* proceeding.³ For instance, there are a myriad of important factors that would impact the development and implementation of utilization thresholds that the Pennsylvania PUC must consider before establishing a fill rate. For example, how will the utilization rate be calculated? Will it be on the basis of all the numbering resources that a carrier holds throughout a NPA, or will the calculation be limited to only the NXX codes that have been assigned in the rate center in which the applicant wants an additional code? Should applicants have the ability to exclude newly acquired codes when calculating fill rates? What type of numbers count as utilized in determining a carrier's fill rate? For example, do carriers count reserved numbers, numbers allocated to resellers, and numbers reserved in dealer numbering pools, or are certain categories of numbers excluded?⁴ Tightening the standards for obtaining growth codes would only impact number utilization on a temporary basis and is unlikely to significantly slow number exhaust. RCN believes a more efficient allocation of carrier and NANPA resources would be achieved by concentrating efforts toward other number conservation measures such as rate center consolidation.

³ See Number Resource Optimization, *Notice of Proposed Rulemaking*, CC Docket No. 99-200, FCC 99-122 (rel. June 2, 1999) [hereinafter *Numbering Resource Optimization*].

⁴ The FCC considers all of these factors relevant to calculating a prescribed fill rate for carriers. See *id.* at ¶¶ 63-67.

IV. The FCC Should Not Grant the Pennsylvania PUC the Authority to Initiate a Rationing Plan Prior to Arriving at An Area Code Relief Plan

The Pennsylvania PUC has requested the authority to implement a rationing plan prior to establishing an area code relief plan.⁵ The FCC has declined to reach similar requests by other state commissions and reinforced its policy that the rationing of NXX codes should only be for the express purpose of extending the life of an area code until the date of area code relief implementation.⁶ In fact, the only state commission that has received authority to implement a rationing plan prior to initiating an area code relief plan is the California Public Utilities Commission. However, in the *California Delegation Order*, the FCC made clear that such authority was granted due to the fact that there are statutory requirements for public participation in the relief planning process at least 30 months prior to the submission of a recommended relief plan to the California Commission.⁷ In the absence of extenuating and unique circumstances, the FCC should continue to reject such requests.

V. The FCC Should Deny the Pennsylvania PUC's Request to Require Carriers to Assign Numbers from an NXX Code to End Users Within Six Months of Receiving the Code

Similarly, the Pennsylvania PUC has requested authority to require carriers to assign numbers from an NXX code to end users within six months of receiving the code. This would mark a significant modification of the current rules which require that codes be activated within six months as opposed to assigned to end users within that time frame. The FCC has declined to reach

⁵ See *Pennsylvania Petition*, at 14-15.

⁶ See *Massachusetts Delegation Order*, at ¶ 41; *Florida Delegation Order*, at ¶ 39; *New Hampshire Delegation Order*, at ¶ 35; *New York Delegation Order*, at ¶ 32; *Ohio Delegation Order*, at ¶ 25; *Wisconsin Delegation Order*, at ¶ 28.

⁷ See *California Delegation Order*, at ¶¶ 38-41.

such requests from other state commissions and should continue to do so.⁸ This particular issue is being considered by the FCC in its *Numbering Resource Optimization* proceeding and the FCC should wait until it has considered the views of all the commenting parties before allowing states to exercise such authority.⁹

In reconsidering the existing requirements concerning the activation of NXX codes, the FCC and state commissions must recognize the practical impact of such regulation on competitive carriers. One such issue is translation mapping which is required in a switch activation. RCN can not have a switch vendor prepare the translation mapping ahead of installation (which is much more efficient and much less costly) without knowing the digits of NXXs. RCN needs many NXXs to cover its potential build out, or footprint, markets. Market entry is driven by local government agreements and not the rate centers. Without all the NXXs, RCN would need to develop translation mapping one NXX at a time, which would slow its market entry and increase the cost of providing service. Incumbent providers do not confront the same issues as they have all the NXXs that already cover their entire foot print.

VI. The FCC Should Deny the Pennsylvania PUC's Request to Engage in Individual Telephone Number Pooling

The final topic on which RCN wishes to comment is Individual Telephone Number ("ITN") pooling. The Pennsylvania PUC has requested authority to engage in ITN Pooling as an additional tool to conserve numbering resources.¹⁰ The FCC has denied similar requests by other state

⁸ See *Ohio Delegation Order*, at ¶ 23; *Wisconsin Delegation Order*, at ¶ 23.

⁹ See *Numbering Resource Optimization*, at ¶ 98.

¹⁰ See Pennsylvania PUC Petition, at ¶ 15.

commissions. For example, in both the *California Delegation Order* and the *New York Delegation Order*, the FCC found that this mechanism of number portability was too underdeveloped to allow experimentation.¹¹ Furthermore, the *NANC Report* makes clear that there are a number of unresolved matters with ITN pooling. Indeed, even the FCC itself has determined not to pursue ITN pooling at this time because of the length time it would take to implement and the fact that the technical and administrative standards are not as advanced as other pooling methods.¹² The FCC should not undermine its own process by giving the Pennsylvania PUC authority to experiment with this number conservation mechanism. The FCC should therefore deny the Pennsylvania's PUC request for expanded authority over ITN pooling.

VII. Conclusion

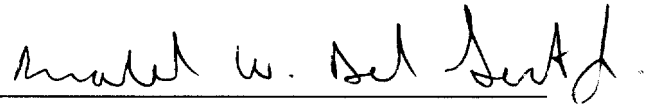
For the reasons detailed in its prior filings in regard to various state petitions seeking additional delegated numbering authority, RCN respectfully asks that the FCC complete its own *Numbering Resource Optimization* proceeding prior to granting states authority in this area. Since the FCC has already granted a number of requests by other state commissions, RCN requests that the Commission focus on certain implementation issues that have caused carriers problems in other states. Thus, the Commission should clearly limit the authority of the Pennsylvania PUC to *fully* implement a number pooling trial in a particular MSA before expanding to a separate MSA. Additionally, the Commission should require the Pennsylvania PUC to consider the same factors that the FCC is evaluating in establishing a fill rate.

¹¹ See *California Delegation Order*, at ¶ 24; *New York Delegation Order*, at ¶ 37.

¹² See *Numbering Resource Optimization*, at ¶ 141.

Further, the Commission should deny the request of the Pennsylvania PUC to engage in activities that exceed the delegated authority granted to other state commissions. Specifically, the FCC should deny the Pennsylvania PUC the authority to: (1) initiate a rationing plan prior to arriving at an area code relief plan; (2) to require carriers to assign numbers from an NXX code to end users within six months of receiving the code and; (3) to compel carriers to engage in ITN.

Respectfully submitted,



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